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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE, Plaintiff and Respondent, v. KATHLEEN MARGARET LADD, Defendant and Appellant.	H032456 (Santa Clara County Super.Ct.Nos. CC762505, BB407727)

In late 2007, defendant Kathleen Margaret Ladd, then a senior in college, sought a determination of her ability to pay a booking fee and two probation-related fines or fees that had been imposed at sentencing for her conviction by plea of buying, receiving, concealing, or withholding stolen property. By statute, two of the three fees were subject to her ability to pay. The court declined to then determine Ladd's ability to pay. But the court suspended her obligation to make payments, including, at the prompting of the Department of Revenue, for electronic monitoring fees related to a prior conviction that were not the subject of Ladd's motion, and deferred the ability-to-pay determination relating to the two probation-related fees for a period of just over a year, until January 2009, so that Ladd could complete college, become employed, and potentially realize earning capacity.

Ladd contends on appeal that the trial court erred by not determining her ability to pay at the time of her motion and further by not determining then, on the evidence

presented, that she lacked the ability to pay so as to eliminate the fees. We conclude that with respect to probation-related fees, there is merit to Ladd's claim that the trial court should not have deferred for over a year the ability-to-pay determination, which determination could have included some component for her future earning capacity. But we further conclude that the trial court's failure to have determined Ladd's ability to pay these fees was not prejudicial because the court had the authority to later revisit the issue, whether it had made a prior determination or not, and as we know from later proceedings, it ultimately did so.[1] With respect to the booking fee, we find no error. With respect to electronic monitoring fees from the prior case, the court did not err because all it did was temporarily suspend Ladd's obligation to pay the fees, which she had not included in her motion for a determination of her ability to pay in any event. We accordingly affirm.

STATEMENT OF THE CASE[2]

I. *Case Number BB407727*

In 2004, Ladd was convicted by no-contest plea of petty theft with a prior and battery in Santa Clara County Superior Court case number BB407727. At sentencing on September 23, 2004, the trial court, among other things, suspended sentence and placed Ladd on formal probation for three years, ordered her to serve a six-month jail term, and imposed a $200 restitution fund fine plus what the court called a "10 percent penalty assessment." Ladd was permitted to serve her jail term on the electric monitoring program as authorized by Penal Code section 1203.016[3] beginning in November 2004

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[1] On Ladd's motion, we have by separate orders already taken judicial notice of our prior case of *People v. Ladd* (Apr. 15, 2008, H031838) [nonpub. opn.] and *People v. Ladd* (H033813, appeal pending), in which the record has been prepared but briefing has been stayed. In addition, on our own motion, we also take judicial notice of *People v. Ladd* (Aug. 4, 2005, H028191) [nonpub. opn.] and *People v. Ladd* (Apr. 1, 2010, H034371) [nonpub. opn.].

[2] We dispense with the underlying facts of Ladd's crimes as they are not relevant to this appeal.

[3] Further statutory references are to the Penal Code unless otherwise stated.

with verification of her medical records and to "pay all fees associated with that program."[4] She was referred to the "Department of Revenue for her ability to pay fines and fees." Her counsel asked if fees for the electronic monitoring program would be based on ability to pay and the court confirmed that this was the case. Ladd was initially ordered to begin the electronic monitoring by November 23, 2004, but that date was extended to November 30, 2004. When being physically hooked up to the electronic monitoring system, Ladd was requested to sign a form agreeing to pay $20 per day for each day she participated in the program with a deposit of $70.[5] According to Ladd, she was told that if she did not sign the form, she would not then be hooked up to the program, would consequently miss her compliance date, would not be allowed to participate in the program, and would be required to serve jail time instead. She asked for a delay to speak with her lawyer about the form but was told that if she delayed, it would preclude her participation in the program because she would miss her compliance date. She accordingly signed the form agreeing to pay.

On appeal from the judgment of conviction and sentencing, Ladd challenged the so-called penalty assessment on the restitution fund fine as unauthorized. Concluding that the 10 percent fee imposed on top of the fine was intended to be a permissible administrative fee under section 1202.4, subdivision (*l*) and not an impermissible penalty assessment, we rejected Ladd's claim and affirmed. (*People v. Ladd* (Aug. 4, 2005, H028191) [nonpub. opn.].) Ladd did not raise any other issues in that appeal.

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[4] It appears that electronic monitoring was permitted for medical reasons. In March 2005, probation terms were modified such that Ladd was permitted to serve her remaining jail term by substituting community service in place of the electronic monitoring program. This was also for medical reasons.

[5] The form provides for a repayment rate of $5.00 per day *while* Ladd was an active participant of the program and it acknowledges that the "repayment rate is based on [the probationer's] ability to pay" and that the person "cannot be denied consideration for or removed from participation in the [program] because of an inability to pay," which is consistent with section 1208.2, subdivision (g).

II. *Case Number CC762505*

In 2007, while still on probation in the prior case, Ladd was convicted by no-contest plea in Santa Clara County Superior Court case number CC762505 of buying, receiving, concealing, or withholding stolen property. She also admitted having committed the offense while she was out of custody and out on bail on a separate felony charge of possession of a controlled substance. On June 8, 2007, under a negotiated disposition, the trial court suspended imposition of sentence and placed Ladd on formal probation for three years, and, without objection, reinstated and modified probation by extending it in case number BB407727 to be "coterminous" with probation in case number CC762505. The separate possession-of-a-controlled-substance charge was referred to a different court for sentencing. Conditions of probation in case number CC762505 included a six-month jail term with credit for time served, substance abuse counseling, and payment of restitution.[6] The trial court also imposed various fines and fees, including a $129.75 criminal justice administration or booking fee to the City of Santa Clara, a presentence investigation fee "not to exceed $450 and probation supervision fees not to exceed $64 per month," both these latter fees under section 1203.1b.

At the change of plea hearing, the court informed Ladd that she would be required to prepare a statement-of-assets form, which she was provided with, and at sentencing, she was referred to the "Department of Revenue for determination of her ability to pay fines and fees." In response to this referral, Ladd's counsel requested a court hearing to

[6] Ladd apparently was released from jail on August 4, 2007, after serving 123 days. On July 21, 2008, the probation department "banked" her case, meaning that she no longer had to actively report to probation but was still subject to administrative monitoring. Thus, according to Ladd, her time on active probation during which she required services was 11 months and 17 days. During that time, she met with her probation officer on approximately six occasions for approximately 10 minutes each time and she submitted approximately seven urine tests.

determine her ability to pay "fines, fees, and restitution" and the court reiterated its reference to the Department of Revenue for this determination with the proviso that Ladd could later request a hearing after the Department made its findings. Ladd's counsel made the point that her oral request for a hearing was for the record as "sometimes those fees are a bit on the exorbitant side."

Ladd appealed based on the sentence or other matters occurring after the plea in a case filed under *People v. Wende* (1979) 25 Cal.3d 436. We concluded that there were no arguable issues on appeal and affirmed. (*People v. Ladd* (Apr. 15, 2008, H031838) [nonpub. opn.].)

III. *Ladd's Motion for an Order Determining Her Ability to Pay*

On September 28, 2007, three months after sentencing, Ladd filed a motion in case number CC762505 for the court to determine her ability to pay three particular fines or fees. The motion contended that because Ladd was a full-time student at San Jose State University in her senior year and because she was not then employed and would not possibly be employed until after her graduation from college in May 2008, she had no ability to pay fines and fees in that case that she contended were subject to ability to pay—the $129.75 criminal justice administration (booking) fee, and the $450 pre-sentence investigation fee and $64 per month probation supervision fee, both under section 1203.1b. Ladd further contended that the Department of Revenue had not in fact determined her ability to pay fines and fees but had instead merely billed her for the maximum amount of the fees, even though the court had actually ordered her to pay a pre-sentence investigation fee "not to exceed" $450 and monthly probation supervision fees "not to exceed" $64.

Ladd's motion included a declaration by her counsel describing counsel's efforts to obtain a Department of Revenue determination of Ladd's ability to pay. This declaration contained evidence to the effect that the Department of Revenue will not reduce fines and fees for inability to pay except in four specified circumstances, none of

which applied to Ladd: "1) if the defendant receives SSI as his or her only income; [¶] 2) if the defendant receives AFDC and does not have other income; [¶] 3) if the defendant is disabled and receives only funds from disability; or, [¶] 4) if the defendant is terminally ill and can produce medical documentation to that effect." Ladd also submitted a Statement of Assets showing that she had no earnings or assets and that her only source of income was from her mother.[7] The Statement included as a debt $2,160 still owed in case number BB407727, which was the total billed to Ladd in that case for electronic monitoring fees, but neither this charge nor this amount were challenged by the motion as beyond Ladd's ability to pay.

The motion was heard on December 19, 2007. Ladd had subpoenaed three people from or representing the Department of Revenue, who were present. The People pointed out that the fees owing in case number CC762505 were just over $3,000 and that Ladd had been billed by the Department of Revenue to pay that amount in monthly installments of $103. The parties agreed that at the time of the hearing, Ladd was a student, was impecunious, and had no ability to pay the challenged fines and fees. But the People represented that the Department was insisting on full payment because Ladd would "have earnings in the future."

The court ultimately expressed its view that because Ladd was receiving the benefit of probation services and would later be in a position to be employed, the fees should not be forgiven but that it was premature to determine her ability to pay them. The court stayed Ladd's obligation to pay probation-related fees[8] (without accrual of

[7] Ladd's counsel in that hearing was her mother, who, it appears, owned the car Ladd drove, which was her only claimed property in her Statement of Assets, and otherwise financially supported her.

[8] It appears that the deferral did not include the $129.75 criminal justice administration (booking) fee. We say this because this fee is not a probation-related fee as the court specifically referenced the fees to be stayed and because we cannot identify this fee in the later itemization of fines and fees in case number CC762505 provided by the Department of Revenue. Ladd acknowledges in briefing that at least one bill from the

interest) and deferred a determination of Ladd's ability to pay until January 2009, just over one year from the hearing. The court analogized the obligations to student loans, which are held in abeyance until the student graduates and presumably becomes employed. The court also requested the probation department to do "an analysis of their monthly fees" based on whether or not Ladd was receiving a full panoply of probation services and to adjust the monthly $64 charge if probation were terminated or "banked."[9] And it added that if in January 2009, Ladd were still indigent, the obligations might again be deferred.

One of the people who had appeared at the hearing from the Department of Revenue volunteered to the court that although it was not the subject of Ladd's motion, she had requested of the Department that fees owed for her participation in the electronic monitoring program some three years before in case number BB407727 be "deleted" based on her inability to pay and that the Department did not object if the court were to also consider these fees "held" until after Ladd graduated from college. The court accordingly included those fees among the others for which Ladd's obligation to pay was being stayed pending her graduation.

Ladd timely appealed the court's order deferring a determination of her ability to pay, which is appealable under section 1237, subdivision (b) as an order made after judgment.

Department of Revenue in 2007 did not include this charge. This omission is consistent with our conclusion below that Ladd was ordered to pay the booking fee to the City of Santa Clara, whose officers had arrested her, and not the County.

[9] The court said that if probation were terminated, then there shouldn't be probation supervision fees accruing after that and if her probation were "banked," meaning placed off of active reporting status, the fees could be reduced. But the full probation cost of $64 per month, which was asserted by the Department of Revenue to be the average actual cost, should continue to be charged if Ladd were being "actively supervised on a weekly basis and [if there were] regular activity with full service being rendered." Accordingly, the court requested the probation department to "evaluate the sliding scale up to $64 depending on the type of service they actually render."

DISCUSSION

I. *Issues on Appeal*

Ladd's primary contention in this appeal is that the trial court abused its discretion by deferring a determination of her ability to pay for a period of about 13 months because it was obliged to make that determination in its ruling on her motion heard in December 2007. She secondarily contends that on the evidence, her motion established her inability to pay such that the trial court should have eliminated the three fines or fees that were targeted by her motion and electronic monitoring fees in the prior case that were not. The People respond that Ladd's claims are not ripe because, by its order, the court did not make an adverse determination affecting Ladd's substantial rights under section 1237, subdivision (b); that a challenge to her ability to pay electronic monitoring fees from the prior case is not cognizable in this appeal; and that her claim fails on the merits in any event.

As we view the central issue in the case, it is whether the trial court erred by exceeding its statutory authority when it deferred for some 13 months a determination of Ladd's ability to pay the fines or fees she sought to eliminate by her motion based on her asserted lack of ability to pay. Our review involves construction and application of statutes where the relevant facts are undisputed, a task we perform by applying independent review. (*People ex. rel. Lockyer v. Shamrock Foods Co.* (2000) 24 Cal.4th 415, 432; *Ghirardo v. Antonioli* (1994) 8 Cal.4th 791, 799; *Hurtado v. Statewide Home Loan Co.* (1985) 167 Cal.App.3d 1019, 1023-1024, disapproved on other grounds in *Shamblin v. Brattain* (1988) 44 Cal.3d 474, 479.)

II. *Analysis*

A. *Probation-Related Fees*

The $450 pre-sentence investigation fee and the $64 per month probation supervision fee, both of which were targeted by Ladd's motion, are governed by section 1203.1b. This section provides in pertinent part that the probation officer, or his or her

authorized representative, which we, like Ladd, assume here to properly be the Department of Revenue, shall make a determination of a defendant's ability to pay the costs of a pre-sentence investigation and probation supervision fees and shall inform the defendant that he or she is entitled to a hearing. In the hearing, "the court *shall* make a determination of the defendant's ability to pay and the payment amount." (§ 1203.1b, subd. (a), italics added.)

At the hearing, the defendant has a right to be heard in person, to present witnesses and documentary evidence, to cross-examine adverse witnesses, and to receive a written statement of the court's findings. (§ 1203.1b, subd. (b)(1).) If the defendant does not waive the right to a court hearing, "the court shall order the defendant to pay the reasonable costs if it determines that defendant has the ability to pay those costs based on the report of the probation officer, or his or her authorized representative." (§ 1203.1b, subd. (b).) At the hearing, "if the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability." (§ 1203.1b, subd. (b)(2).)

Under section 1203.1b, subdivision (e), " 'ability to pay' means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, . . . and probation supervision . . . , and shall include, but shall not be limited to, the defendant's: (1) Present financial position. (2) Reasonably discernible future financial position. *In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonably discernible future financial position.* (3) Likelihood that the defendant shall be able to obtain employment *within the one-year period from the date of the hearing*. (4) Any other factor or factors that may bear upon the defendant's financial capability to reimburse the county for the costs." (Italics added.)

Section 1203.1b, subdivision (c) provides that the court "may hold additional hearings during the probationary or conditional sentence period to review the defendant's financial ability to pay the amount, and in the manner, as set by the probation officer, his or her authorized representative, or as set by the court pursuant to this section." Section 1203.1b, subdivision (f) further provides in pertinent part that at "any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the probation officer for a review of the defendant's financial ability to pay or the rendering court to modify or vacate its previous judgment on the grounds of a change in circumstances with regard to the defendant's ability to pay the judgment."

Accordingly, section 1203.1b contemplates that if a defendant invokes his or her right to a court determination of his or her ability to pay probation-related costs, the court *shall* make this determination after a hearing and in doing so, may take into account the defendant's earning capacity for a period of no more than one year from the hearing. If the court perceives that a defendant may have a greater ability to pay by earning capacity or otherwise later than one year out, the court is free to set additional hearings during the probationary period to revisit the question of a defendant's ability to pay and to modify what is required to be paid.

Although the statute does not expressly preclude a deferral of a defendant's ability to pay, its mandatory directive that the court must determine ability to pay if a defendant exercises his or her right to a court hearing impliedly does so. And, in order to harmonize the above-mentioned statutory provisions, particularly those limiting the period of future earning capacity that may be considered by the court, we must interpret the statute such that a defendant exercising his or her right to a court determination of ability to pay will receive that determination in response to the motion, which determination may project earning capacity for a one-year period and no more. We do not interpret section 1203.1b, subdivision (c), which permits a court to later revisit a

previous determination of a defendant's ability to pay, to mean that the court can decline to make the determination, or indefinitely or perpetually defer it, pending a defendant's future realization of earning capacity beyond one year. While a continuance or postponement of a hearing in order to obtain more information from which to make the determination for some time less than a year might present a different question and one that we do not decide, here the court simply assumed that Ladd would be realizing future earning capacity 13 months from the hearing, which is obviously more than a year later, and simply declined to then make an ability-to-pay determination on that assumption. This was error, based on our reading of section 1203.1b.

But that conclusion does not end our analysis. In order to warrant reversal, our constitution requires a trial court's error to be prejudicial. (Cal. Const., Art. VI, § 13.) Because section 1203.1b, subdivision (c) provides that the court may hold additional hearings during the probationary period to review a defendant's ability to pay probation-related costs, even if the court here had determined in December 2007[10] that she had no ability to pay probation-related costs, the court still had the discretion and authority to set another hearing in January 2009 to revisit any previous determination and make a new determination regardless of the prior one. And we now know from having taken judicial notice of the record in *People v. Ladd* (H033813, app. pending) that on January 26, 2009, the court made a factual determination of Ladd's ability to pay these costs and reduced the total owed.[11] Accordingly, Ladd suffered no prejudice whatsoever as a result of the

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[10] Ladd contends that the court actually determined in December 2007 that she lacked the ability to pay the fines and fees. Although the parties appeared to agree that this was the case, as we read the record the court did not hear any testimony concerning Ladd's ability to pay and it did not make any findings or determinations of this kind at the hearing.

[11] On Ladd's request, we stayed briefing in that appeal but we have reviewed the record and know that in January 2009, the court reduced probation supervision fees to $900 from $2,304 and concluded that Ladd had the ability to pay $25 per month toward outstanding fines and fees in each case, for a total monthly payment of $50. Ladd

court having declined to make a determination 13 months earlier, precluding reversal here.[12]

B. *Criminal Justice Administration (Booking) Fee*

As noted, at sentencing, the trial court imposed a $129.75 criminal justice administration or booking fee payable to the City of Santa Clara. The record in *People v. Ladd* (Apr. 15, 2008, H031838) [nonpub. opn.], of which we have taken judicial notice, reflects that Ladd was arrested by police from the City of Santa Clara and taken to the county jail for booking. This means that a booking fee was not imposed under Government Code section 29550.2 as Ladd contends but rather, as reflected in court minutes and the reporter's transcript from sentencing, under Government Code section 29550.1, which applies to individuals arrested by a city and concerns fees payable to a city. Government Code section 29550.2, which applies to the extent a person is arrested by a governmental agency not specified in Government Code section 29550 or 29550.1 and makes the fee payable to the county, contains language that makes payment of the fee subject to a person's ability to pay. But Government Code section 29550.1 does not.

Instead, Government Code section 29550.1 provides in relevant part that any "city, . . . or other local arresting agency whose officer or agent arrests a person is entitled to recover any criminal justice administration fee imposed by a county from the arrested person if the person is convicted of any criminal offense related to the arrest" and that the court "shall, as a condition of probation, order the convicted person to reimburse the

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appealed from that order, which is beyond the scope of the instant appeal. We therefore do not address it here.

[12] The People have approached this conclusion with the alternate argument that the court's order was not appealable under section 1237, subdivision (b) because it did not affect Ladd's substantial rights. We understand the point but view it instead as the absence of prejudicial error, at least concerning probation–related costs governed by section 1203.1b.

city, . . . for the . . . fee." Thus, the criminal justice administration fee imposed here[13] appears to have been mandatory and not subject to ability to pay. The trial court's order of December 19, 2007, which stayed Ladd's obligation to pay probation-related costs and electronic monitoring fees and deferred an ability-to-pay determination for 13 months, was accordingly not erroneous with respect to the criminal justice administration or booking fee imposed under these circumstances.

C. *Electronic Monitoring Fees*

It is clear from the record and from the record in H028191, of which we have taken judicial notice, that electronic monitoring fees were imposed in 2004 in case number BB407727. It is also clear from Ladd's 2007 motion in case number CC762505 for an order determining her ability to pay three specific fees in that case that Ladd did not include electric monitoring fees from the prior case among the fines or fees she sought to eliminate based on her inability to pay. And Ladd made no request at the December 2007 hearing regarding these fees. The trial court included the electronic monitoring fees from the prior case within those obligations that the court announced it was going to stay only when a Department of Revenue representative present at the hearing volunteered that the Department had no objection to these fees being included among the other stayed obligations, which was done, as noted, without interest accruing. Accordingly, Ladd never requested a determination of her ability to pay electronic monitoring fees and she benefitted from the court having stayed her obligation to pay them for 13 months.

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[13] As Ladd acknowledges, on July 7, 2007, the Santa Clara County Department of Revenue billed her in case number CC762505 a total of $3,064 for the pre-sentence investigation fee ($450), probation supervision fees ($2,304), courtroom security assessment ($40), a restitution fund fine ($200), a restitution fund fine administration fee ($20), and a processing fee ($50). Thus, the $129.75 booking fee does not appear in billings generated by the County of Santa Clara. This is consistent with the fee being owed to the City of Santa Clara rather than the County.

It follows that the People's contention about Ladd not being aggrieved, within the meaning of section 1237, subdivision (b), by the court's order appears to be well taken with respect to electronic monitoring fees. Concerning these fees, she never asked the trial court for the relief she is claiming she didn't get—a determination of her ability to pay—and she suffered no harm as a result of the court's order.

But even reaching the merits, Ladd's claim concerning electronic monitoring fees must fail. Sections 1203.016 and 1208.2 apply to these fees. Section 1203.016 authorizes a county, through its board of supervisors, to adopt an electronic home detention program under which "minimum security inmates and low-risk offenders committed to a county jail . . . or granted probation, . . . may voluntarily participate in a home detention program *during their sentence in lieu of confinement in the county jail* . . . under the auspices of the probation officer." (§ 1203.016, subd. (a), italics added.) Section 1208.2 provides that if a county authorizes an electronic home detention program through its board of supervisors, the board may also prescribe a program administrative fee and an application fee, which together shall not exceed the pro rata costs of the program, including equipment, supervision, and other operating costs, except as otherwise provided as not applicable here. (§ 1208.2, subd. (b)(1).) The program administrator, who is deemed to be the sheriff, probation officer, director of the county department of corrections, or county parole administrator, or his or her designee, may charge the defendant "the fee set by the board of supervisors or any portion of the fee and may determine the method and frequency of payment. Any fee the administrator, or his or her designee, charges pursuant to this section shall not in any case be in excess of the fee set by the board of supervisors and shall be based on the person's ability to pay. The administrator, or his or her designee, shall have the option to waive the fees for program supervision when deemed necessary, justified, or in the interests of justice. The fees charged for program supervision may be modified or waived at any time based on the changing financial position of the person." (§ 1208.2, subd. (f).) "*At any time during a*

person's sentence, the person may request that the administrator, or his or her designee, modify or suspend the payment of fees on the grounds of a change in circumstance with regard to the person's ability to pay." (§ 1208.2, subd. (g), italics added.) "If the person and the administrator, or his or her designee, are unable to come to an agreement regarding the person's ability to pay, or the amount which is to be paid, or the method or frequency with which payment is to be made, the administrator, or his or her designee, shall advise the appropriate court of the fact that the person and administrator, or his or her designee, have not been able to reach agreement and the court shall then resolve the disagreement by determining the person's ability to pay, the amount which is to be paid, and the method and frequency with which payment is to be made." (§ 1208.2, subd. (h).)

Accordingly, there are statutory procedures for the setting of electronic monitoring fees, the amount that a defendant may be charged, the manner in which the administrator may adjust charges based on a person's ability to pay, when and how a person may request administrator adjustment based on financial circumstances, and how a disagreement between the person and the administrator concerning payment terms may be resolved. It is only at this last juncture that a court becomes involved in the ability-to-pay determination, and only after the statutory processes do not produce a resolution of the issue.

Here, the record does not show that Ladd followed the prescribed statutory procedures concerning electronic monitoring fees. There is nothing to show that "during [her] sentence" (§ 1208.2, subd. (g)), which we read in conjunction with section 1203.016, subdivision (a) as the period in which a person "participate[s] in a home detention program *during their sentence* in lieu of confinement in the county jail," (italics added) i.e., in late 2004 and early 2005 when Ladd participated in the program, she timely requested an adjustment of fees based on her inability to pay. Second, the record in this case does not show a disagreement about this between Ladd and the Department of Revenue such that in December 2007, the court had been formally called upon to resolve

the disagreement by making a determination of her ability to pay in accordance with section 1208.2, subdivision (h). A Department of Revenue representative informed the court at the December 2007 hearing that Ladd had requested that fees be "deleted," and that the Department had no objection to the fees also being "held" pending a later hearing. The court then stayed Ladd's obligation to pay the fees. At that point, the court was not obliged by statutory mandate to do anything further.

We accordingly conclude that Ladd has shown no error by the court's December 19, 2007 order under appeal here with respect to electronic monitoring fees incurred in case number BB407727.

DISPOSITION

The superior court's December 19, 2007 order is affirmed

Duffy, J.

WE CONCUR:

Mihara, Acting P.J.

McAdams, J.